

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 24, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 15HD-210

Hawaii

Sale of Lease at Public Auction for Industrial Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:083; Issuance of a Revocable Permit to Ruel Abalos Doing Business as Abalos Motorworks for Auto Repair Purposes Pending Public Auction, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:083.

PUBLIC AUCTION

REQUEST:

Sale of lease at public auction for industrial purposes as allowed under County zoning.

LEGAL REFERENCE:

Sections 171-6, -13, -14, -14.5, -16, -17 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kanoiehua Industrial Lots situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-2-050:083, as shown on the attached map labeled Exhibit A.

AREA:

9,750 square feet, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	ML 20, limited industrial

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Previously encumbered under General Lease No. S-3594 to Raymond Izuno for auto body and fender repair purposes. Lease expired 1/14/16.

CHARACTER OF USE:

Industrial, purposes as allowed under County zoning.

LEASE TERM:

Approximately ten (10) years, with an expiration date of March 19, 2026, to be concurrent with the expiration of other leases in the vicinity.

COMMENCEMENT DATE:

The date of sale if the then current authorized occupant, if any, is the successful bidder, otherwise Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal, subject to review and approval by the Chairperson. The appraisal shall determine the upset rent for land and improvements for the term of the lease.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities – Water, electricity, phone, sewer

Existing improvements – An industrial warehouse with an enclosed vehicle paint booth and large capacity air compressor. Perimeter fencing and a small parking lot fronting the building.

Legal access to property – Staff has verified that there is legal access to the property off of Pookela Street.

Subdivision – Staff has verified that the subject property to be auctioned is a legally subdivided lot.

Encumbrances – Staff has verified that the property is currently unencumbered.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List", approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item Nos. 47 and 51 as stated in the Exemption Notification attached as Exhibit B.

REVOCABLE PERMIT

APPLICANT:

Ruel Abalos dba Abalos Motorworks.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

AREA:

9,750 square feet, more or less

CHARACTER OF USE:

Industrial purposes.

COMMENCEMENT DATE:

Effective date of January 15, 2016. Billing period shall be the first day of the month.

MONTHLY RENTAL:

\$975.00 per month. Continuation of previous lease rent pending sale of lease at public auction.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

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DCCA VERIFICATION:

Not required. Applicant is an individual and as such, is not required to register with the DCCA.

REMARKS:

Background:

General Lease S-3594 dated 1/16/1961 was executed between the State of Hawaii and James Broto Toledo. Annual rental for lease was set at \$400.00 per year with the first two years rent waived. Term of lease was for 55 years.

On 5/3/1988, lease was assigned from James Broto Toledo, Jr. to Elton Fumio Kaku and Cindy Mitsuko Kaku, husband and wife, under Board Agenda Item F-1-c, dated 1/8/1988.

Further, at its meeting of April 12, 2001, under agenda item D-19 and through mesne assignments, GL S-3594 was assigned from Elton Fumio Kaku, Assignor to Raymond T. Izuno, Assignee.

Mr. Izuno had been subleasing a portion of the property to the Applicant for approximately the past three and a half (3.5) years. The lease expired on January 14, 2016 and the Applicant has expressed a desire to continue his business on the property with a month-to-month revocable permit. As a result of the continued use of the property, the effective date of the revocable permit will be January 15, 2016.

The Applicant is a certified mechanic and operates an auto repair business. He will be utilizing the property as a repair shop in addition to offering vehicle safety inspections. The proposed use is consistent with the county zoning.

Lease at Public Auction and Revocable Permit:

The subject parcel is located in an area served by aging and/or substandard infrastructure. The area also includes numerous other DLNR parcels currently encumbered by long term leases that were scheduled to expire between 2016 and 2021. Most of the DLNR leases in this area were established pursuant to Act 4, First Special Session of 1960 and Act 32, Sessions Laws of Hawaii 1962 resulting from the destruction of the Hilo Bay Front caused by the 1960 tsunami. Businesses that were severely impacted by the tsunami were given the opportunity to relocate to the newly created industrial area of Kanoelehua. These acts provided the Lessees with an option to purchase the land within two years. Several businesses exercised this option, creating an industrial area of mixed DLNR leases and fee simple properties.

The DLNR leases in the Kanoelehua Industrial Area (KIA) were eligible for a 10-year lease extension pursuant to Act 207, Session Laws of Hawaii 2011¹ in order to amortize

¹ Act 207, Session Laws of Hawaii 2011 amends Section 171-36(b) of the Hawaii Revised Statutes by allowing the Lessee to: Extend or modify the fixed rental period of the lease: provided that the aggregate of the initial term and any extension granted shall not exceed sixty-five years.

the cost of improvements to the property. Many of the leases in the industrial area exercised this option to extend their current leases, and as a result, these leases will expire in approximately ten years. The latest expiration date of the leases in the vicinity is March 19, 2026. In an effort to maintain continuity with other DLNR leases in the area, staff is recommending an approximately 10-year lease through the public auction process for this property with an expiration date of March 19, 2026.

While the subject State land is being prepared for public auction, staff feels it is in the best interest of the Department that this property continues to be occupied. A temporary use of the property through a month-to-month revocable permit would provide security to the building and prevent any vandalism from occurring. The Applicant understands that the revocable permit is temporary while HDLO staff prepares the property for lease at public auction.

Property:

An inspection of the property on October 22, 2015 revealed an excessive amount of derelict vehicles on the property along with trailers, various automotive parts, engines, transmissions, mechanical equipment, along with oil drums, rusted propane containers and other possible petroleum contaminants. Staff had advised the applicant that the property would have to be cleaned up before any consideration would be given towards a month-to-month revocable permit.

As a condition to the Board consenting to the revocable permit, staff has requested the Applicant provide a Phase I Environmental Site Assessment to determine the current environmental status of the property.² Should remediation be required, the Applicant will be responsible for the clean-up, to be carried out by a licensed, environmental contractor. The Applicant shall then submit a certified report upon completion to the Hawaii District Land Office (HDLO).

Should the Applicant, Ruel Abalos not be the winning bidder at the public auction, the successful bidder shall be required to reimburse Ruel Abalos the cost of the Phase I Environmental Site Assessment as established by receipts presented to DLNR.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

A request for comments was distributed to various government agencies with the responses indicated below.

² Applicant has engaged the services of a licensed environmental consultant and is presently conducting a Phase I Environmental Site Assessment of the subject property. (Exhibit C)

County of Hawaii Agencies	Comments
Environmental Management	No Comments
Fire Department	No Comments
Planning	No Objection
Police Department	No Comments
Public Works	No Response
Water Department	No Objection
State of Hawaii Agencies	Comments
DLNR-Historic Preservation	No Response
DHHL	No Response
DOH-Environmental Management	No Response
DOT-Highways Division	No Response
Other Agencies	Comments
Office of Hawaiian Affairs	No Response
Corps of Engineers	No Response

Subject to the Applicant meeting all the above conditions, staff is recommending that the Board consent to the issuance of a month-to-month revocable permit for industrial purposes to Ruel Abalos while staff prepares the property for lease at public auction.

RECOMMENDATION: That the Board:

PUBLIC AUCTION:

1. Find the area to be an economic unit in terms of the intended use.
2. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the sale of a lease at public auction covering the subject area for business, commercial or industrial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current business, commercial or industrial general lease form, as may be amended from time to time;

- b. Should the Applicant, Ruel Abalos not be the winning bidder at the public auction, the successful bidder shall be required to reimburse Ruel Abalos the cost of the Phase I Environmental Site Assessment as established by receipts submitted to DLNR;
- c. Review and approval by the Department of the Attorney General; and
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

REVOCABLE PERMIT:

- 1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- 2. Authorize the issuance of a revocable permit to Ruel Abalos, covering the subject area for commercial/industrial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Provide a certified report from a licensed environmental contractor for the Phase I Environmental Site Assessment on the subject lease property as described in the remarks section above;
 - c. Monthly rental shall be set at \$975.00 per month, being a continuation of previous lease rent pending sale of lease at public auction;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



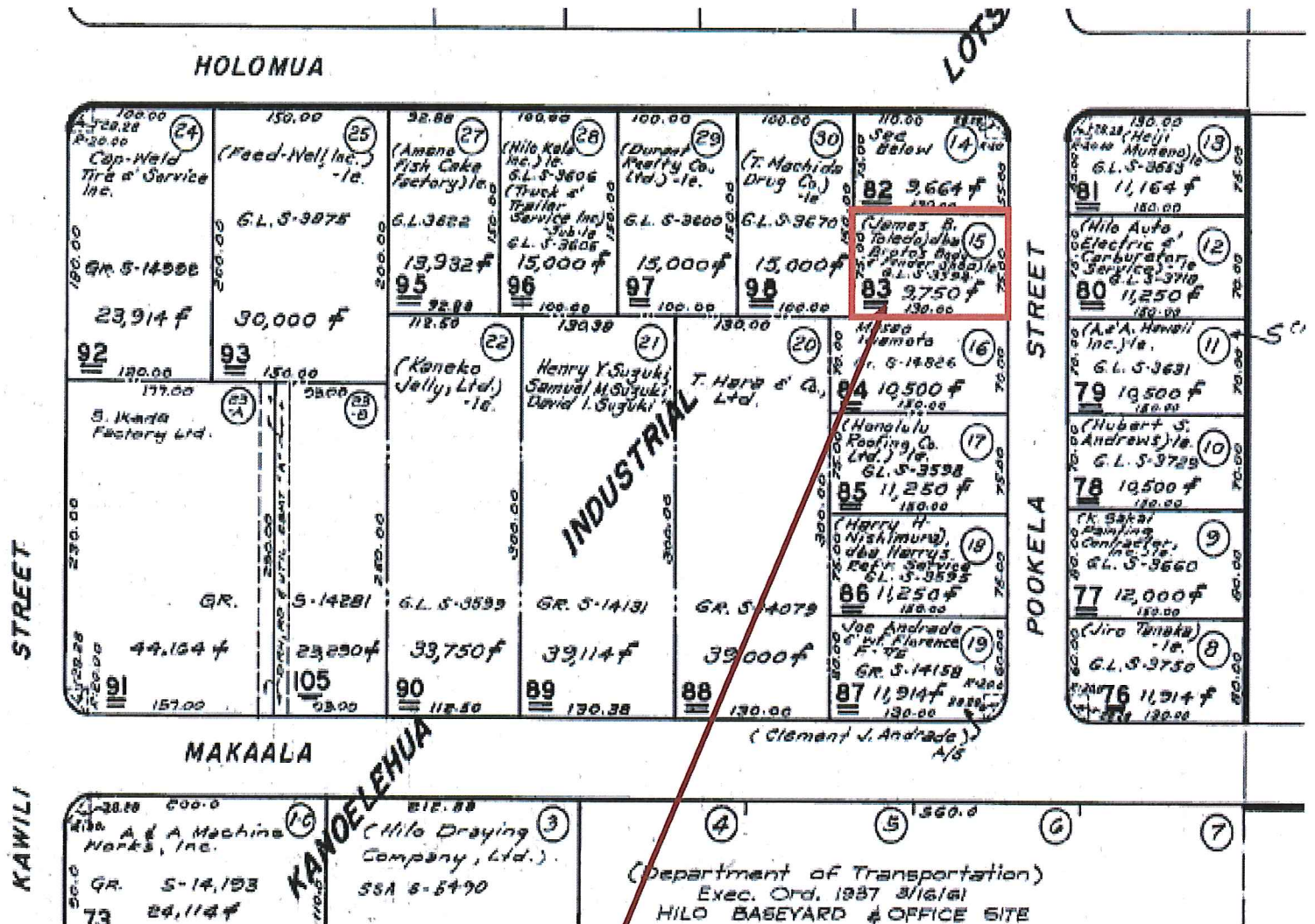
Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

TMK: (3) 2-2-050:083





Google earth





Google earth

feet
meters



GL S-3594 PRE-FINAL INSPECTION 10/22/15



STREET VIEW



STREET VIEW



ENTRANCE TO WORK AREA



SIDE VIEW OF WAREHOUSE

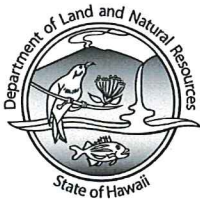


INTERIOR VIEW OF WAREHOUSE



INTERIOR VIEW OF WAREHOUSE

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 24, 2016

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Sale of Lease at Public Auction and Authorize a Month-to-Month Revocable Permit to Ruel Abalos dba Abalos Motorworks.

Project / Reference No.: PSF 15HD-210

Project Location: Kanoelehua Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-050:083

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 47 that states "Leases of state land involving negligible or no expansion of change of use beyond that previously existing", and Item 51 that state "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing", respectively.

Project Description: General Lease No. S-3594 was issued in 1961 for a term of 55 years and expired on January 14, 2016. The Applicant, Ruel Abalos, is requesting a month-to-month revocable permit for automotive repair business purposes.

The month-to-month revocable permit will allow the property to be occupied until such time that the DLNR is prepared to issue a new lease by public auction.

EXHIBIT B

The use of the property will remain the same and no expansion of use is proposed or planned.

Consulted Parties

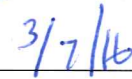
Planning Department, Environmental Management, County of Hawaii

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson



Date



EXHIBIT C

Lehua Environmental Inc. appreciates this opportunity to offer our services to you. If our proposal is acceptable, please indicate so by dating and signing where indicated below and returning to us. If you have any questions regarding this proposal, please call me at (808) 494-0365.

Sincerely,

LEHUA ENVIRONMENTAL INC.

Kamalana Kobayashi
President

APPROVAL AND ACCEPTANCE

Proposal to perform a Phase I ESA for TMK: (1)2-2-050-083.

By signature of the duly authorized officer or representative of the following party, it is acknowledged that the above proposal has been read and understood and is hereby agreed to and accepted.

By: [Signature]

Date: 2-4-16

Title: OWNER - AKAHUA MUTUALITY